

## New FHA regulations stall many recent condo sales

By PAMELA MACKENZIE • STAFF WRITER • May 23, 2010

**CENTRAL JERSEY** — Recent changes in the way the Federal Housing Administration approves mortgages for condominiums have left many would-be homeowners out in the cold, at least temporarily.

That's because the FHA will no longer approve a mortgage for a unit in a community that does not comply with new, stringent standards that went into effect on Feb. 1. In order to be certified as a compliant community, the condo association must apply to the FHA to become certified as meeting all the standards. An FHA lender can also apply on the condominium community's behalf to get this certification.

The FHA doesn't make loans itself, but it does ensure loans made to people with small down payments or less than perfect credit. This is why among first-time buyers, FHA mortgages are often the only option for buying a home.

Lemar Wooley, an FHA spokesman, said the new regulations were put into place because Congress changed the law, allowing FHA to make approvals of loans to condominium buyers more similar to single-family home-loan approvals.

"The 'Housing and Economic Recovery Act of 2008' (HERA), moved the condominium authority from Section 234 to Section 203 to allow for more flexible condominium policy guidance," Wooley said. "Because of this change in law, the Federal Housing Administration (FHA) is implementing a new approval process for condominium projects and insurance requirements for mortgages on individual units, as authorized under Section 203(b) of the National Housing Act."

Wooley explained that Section 234 was a special section dealing specifically with condominiums. Section 203 provides general guidance for single-family homes.

### UNDERSTANDING THE RULES:

Announced in November, the new regulations fall

into three broad categories, according to Orest Tomaselli, the president of National Condo Advisors, a consulting company that works with condominium associations to help them meet the regulations.

First, he said, the community must demonstrate it has a budget reserve that is equal to 10 percent of its annual budget. The reserve exists for repairs and maintenance of the common property and plant - the sidewalks, roofing, siding, windows, swimming pool, tennis courts, clubhouse or other facilities. If a community does not have or want such a large reserve, Tomaselli said it can hire an engineer to study the community's needs and recommend a lower amount. If the FHA accepts the engineer's study, a lower reserve amount can be set for that community.

Second, the condominium community must meet new flood-plain requirements set forth by the Federal Emergency Management Agency. If the community is not in a flood plain, this is not an issue. However, when FEMA redrew its flood maps recently, it expanded the areas it believes will flood. Within those areas, buildings can still comply if the community has flood insurance and the highest living space is 10 feet or more above the flood plain. Or, the community can hire an engineer to file a "Letter of Loan Amendment," which, in effect, demonstrates that the FEMA guidance needs adjusting in their case. If FHA accepts this amendment, the community can be certified.

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Third, the community must meet certain ownership requirements. At least half of all the units in the community must be owner-occupied, and no one investor can own more than 10 percent of all the units. In the case of a community that is still being built, a certain percentage of units must be presold.

Tomaselli said that the requirements aren't really bad. Having sufficient capital reserves to meet maintenance needs is wise. Having most of the units occupied by the owners also ensures that the community will be well looked after. And flooding in some areas has been more frequent in recent years. But that doesn't change the fact that these regulations have hit hardest those with the least ability to pay for engineering studies or increased budget reserves.

### HITTING CLOSE TO HOME:

At the Bedminster Hills Housing Commission, which administers the three Mount Laurel/Affordable Housing neighborhoods in the Hills ... Village Green, Courtland and Parkside ... administrator Sharon DeCicco is anxious to get FHA certification for those communities so homeowners can start selling again. She said no one has been able to sell there for three months. The commission's applications for FHA certification are pending, but DeCicco did not know if they met the new requirements.

Peter Cagnassola, a real estate broker in Bedminster, who concentrates on marketing and selling homes in the Hills condominium communities, said he and another agent were able to work with Chase Mortgage to get approval for another Hills community, Crestmont Highlands, within three weeks. He said that two other Hills communities, Mayfield and Fieldstone, have also been certified.

In East Brunswick, sales agent Shirley Stewart from J. J. Elek Realty had sold a unit in Dunham's Court back in January that still hasn't closed. For nearly five months, she and her clients have been trying to get final approval of an FHA loan through Bank of America. They had hoped that because their contract was signed before Feb. 1, they could get their mortgage application approved, even though Dunham's Court is not FHA-certified under the new system.

But Tomaselli said it's too late. Until Dunham's Court gets community approval, none of the homeowners in that condominium will be able to sell their units to buyers with FHA-backed mortgages.

At the Pointe at Turnberry in South Brunswick, Millennium Homes has obtained certification for FHA loans, as well. Lisa Macchi, executive vice president of sales and marketing for Millennium Homes, said that this affects about 10 percent to 15 percent of the buyers for this active-adult community, but the developer believes that certification has been a good investment. She said it allows buyers to move into the community without using all the equity from their previous home to make the purchase. They may need that equity for other things, such as paying for college tuition for their children.

FHA certification will also enable the residents to get reverse mortgages in the future, although Macchi said that hasn't been an issue at this point.

"Most of our buyers are in their late 50s and early 60s, and they're still working," she said.

Macchi also said the certification process, which in their case took two to three months, was quite easy, and that the developer will do it again with other communities.

Tomaselli recommends that every condominium community become certified for the economic health of the development. Compliance ensures that every individual owner within the community has the best

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